



4910-62-P

## **DEPARTMENT OF TRANSPORTATION**

### **Office of the Secretary**

#### **49 CFR Part 10**

**[Docket No. DOT-OST-1996-1437]**

**RIN: 2105-AD85**

### **Privacy Act of 1974: Implementation of Exemptions; DOT/ALL 24 - Departmental Office of Civil Rights System System of Records**

**AGENCY:** Department of Transportation (DOT), Office of the Secretary (OST).

**ACTION:** Final rule.

**SUMMARY:** The Department of Transportation is issuing a final rule to amend its regulations to exempt portions of a newly established or updated and reissued system of records titled, “DOT/ALL 24 - Departmental Office of Civil Rights System” from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the “DOT/ALL 24 - Departmental Office of Civil Rights System” from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

**DATES:** This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Claire W. Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590 or [privacy@dot.gov](mailto:privacy@dot.gov) or (202) 366-8135.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Department of Transportation (DOT), Office of the Secretary (OST) published a notice of proposed rulemaking in the Federal Register (76 FR 71930) November 21, 2011, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records that is the subject of the notice of proposed rulemaking is the DOT/ALL 24 - Departmental Office of Civil Rights System of Records. The DOT/ALL 24 - Departmental Office of Civil Rights System system of records notice was published in the Federal Register (76 FR 71108) November 16, 2011, and comments were invited on both the Notice of Proposed Rulemaking (NPRM) and System of Records Notice (SORN). The notice of proposed rulemaking was inadvertently published under RIN 2105-AD11, and was entitled "Maintenance of and

Access to Records Pertaining to Individuals; Proposed Exemption.” In addition, the notice of proposed rulemaking indicated that the proposed rule would add a new paragraph 8 to Part II.A of the Appendix to Part 10. The notice of proposed rulemaking should have stated that the proposed rule would add a new paragraph 9 to Part II.A of the Appendix to Part 10. The final rule has been revised accordingly.

### **Public Comments**

DOT received no comments on the NPRM and no comments on the SORN.

### **Regulatory Analysis and Notices:**

This final rule is not a “significant regulatory action” within the meaning of Executive Order 12886. It is also not significant within the definition in DOT’s Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this rule does not have a significant economic impact on a substantial number of small entities, because the reporting requirements, themselves, are not changed and because it applies only to information on individuals that is maintained by the Federal Government.

This rule does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it

has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (“Consultation and Coordination with Indian Tribal Governments”). Because it has no effect on Indian Tribal Governments, the funding and consultation requirements of Executive Order 13084 do not apply.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities.

This rule imposes no new information reporting or record keeping necessitating clearance by the Office of Management and Budget. The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this document.

#### **List of Subjects in 49 CFR Part 10**

Privacy.

In consideration of the foregoing, DOT amends Part 10 of Title 49, Code of Federal Regulations, as follows:

#### **PART 10—[AMENDED]**

1. The authority citation for part 10 continues to read as follows:

**Authority:** 5 U.S.C. 552a; 49 U.S.C. 322.

2. The appendix to part 10 is amended by republishing Part II, A introductory text and adding paragraph 9 to read as follows:

**Appendix to Part 10—Exemptions.**

\* \* \* \* \*

Part II. Specific exemptions.

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance 5 U.S.C. 552a(k)(2):

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9. Departmental Office of Civil Rights System (DOCRS).

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Issued in Washington, DC, on February 22, 2012

Nitin Pradhan

Chief Information Officer

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